

Declaration of Ellen Baskin

Exhibit H

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FRANKLIN WHITE,

Plaintiff,

v.

ALCON FILM FUND, LLC,
ALCON ENTERTAINMENT, LLC,
CUBE VISION, INC., WARNER
BROS. PICTURES, AND TIME
WARNER, INC.,

Defendants.

Civil Action No. 1:13-CV-1163-TCB

**DECLARATION OF ELLEN BASKIN IN SUPPORT OF DEFENDANTS’
MOTION FOR SUMMARY JUDGMENT**

ELLEN BASKIN declares as follows pursuant to 28 U.S.C. §1746:

1. This Declaration is based upon my personal knowledge, and if I am called as a witness, I could and would testify competently thereto under oath.
2. I am a freelance researcher and writer. I was asked by Sauer & Wagner LLP to conduct research concerning what I deemed to be a representative sampling of the points of correspondence identified in the report prepared by Plaintiff’s expert Kathryn Arnold. As part of my research, I read the book entitled “First Round Lottery Pick” (the “Book”), watched the motion picture entitled

“Lottery Ticket” (the “Picture”), and reviewed Ms. Arnold’s report. I also conducted Internet searches (*e.g.*, Google, IMDb, YouTube, etc.).

3. In the course of my research, I found that several of the points raised in Ms. Arnold’s report also appear in the motion picture “He Got Game” (1998), which I viewed in its entirety:

- a. The story is about high school basketball phenomenon Jesus Shuttlesworth who is being pursued both by colleges and a sports agent representing NBA interests who want him to turn pro straight out of high school.
- b. Jesus lives in the projects and hangs out with a group of African American kids on the local basketball court.
- c. Jesus has a best friend/sidekick who is with him constantly.
- d. Jesus is treated like a superstar by the locals and pursued by girls -- both good and bad.
- e. Jesus is pressured to provide financial help; now that he’s hit it big, they are all “trying to get a piece” of him.
- f. When his father approaches him, Jesus won’t have anything to do with him, claiming he does not have a father (identical to the situation in the Book).

- g. While having sex with his girlfriend, Jesus wants to wear a “jimmy” (condom), but she says no to this (she is trying to get pregnant to trap him in a relationship).
- h. The local thug Big Time is seen driving a flashy car; he, too, wants to exert influence over Jesus.

4. There are many dramatic films about urban African American youths trying to make it out of the projects – some of these involve basketball as a popular local activity. A few examples are:

- a. “Above the Rim” (1994) – a promising high school basketball star who lives with his single mother finds himself torn between his love for the game and desire to get a college scholarship and leave the inner-city, and his friendships with a drug dealer and the dealer’s brother, a former local basketball star who now works as a security guard.

(http://www.imdb.com/title/tt0109035/?ref_=fn_al_tt_1)

- b. “Finding Forrester” (2000) – Jamal is an inner-city kid from the Bronx who is recruited by a prestigious New York prep school due to his basketball skills and high standardized test scores. Jamal is befriended by a reclusive writer (Forrester) who helps Jamal

overcome a variety of obstacles both on and off the court.

(http://www.imdb.com/title/tt0181536/?ref=fn_al_tt_1).

5. Over the years, many movies have featured high school students who are about to graduate or who have just graduated. In addition to “He’s Got Game” and “Above the Rim,” examples include “Life Begins for Andy Hardy” (1941), “The Last Picture Show” (1971), “American Graffiti” (1972), “Can’t Hardly Wait” (1998), “American Pie” (1999), “ALT” (2006), “Dare” (2009), “Gun Town” (2009), “Still a Teen Movie” (2009), and many more.

6. The depiction of a basketball court in a housing project appears in numerous films and reflects true life situations. In addition to the examples listed in paragraphs 4 and 5 above, a 1992 documentary entitled “More Than a Game” is an account of Chicago playground basketball and explores why so many people -- particularly African American inner-city youths -- are devoted to playing basketball. (http://www.imdb.com/title/tt1633225/?ref=fn_al_tt_7). Similarly, a documentary entitled “Hoop Dreams” (1994) follows the lives of two inner-city high school boys who dream of becoming basketball superstars.

(<http://www.imdb.com/title/tt0110057/>)

7. There are also countless examples of inner-city youths growing up with a single mother, including to name a few:

- a. “Boyz n the Hood” (1991) -- three friends grow up together in South Central Los Angeles, all but one of them fatherless. One of the boys, Ricky, is an All-American athlete who hopes a football scholarship to USC will be his ticket out of the projects. Ice Cube is one of the three friends.

(http://www.imdb.com/title/tt0101507/?ref=fn_al_tt_1)

- b. “Before I Self Destruct” (2009) – a coming of age story about an inner-city youth, Clarence, who has dreams of becoming a basketball player and was raised by a hardworking single mother.

(http://www.imdb.com/title/tt1310569/?ref=fn_al_tt_1)

- c. “Above the Rim” (1994) – a promising high school basketball star who lives with his single mother.

(<http://www.imdb.com/find?q=above+the+rim&s=all>)

- d. TV Series “Friday Night Lights” – the character of Vince is an African-American high school quarterback who lives with his single mother. His father is in prison.

(http://www.imdb.com/title/tt0758745/?ref=fn_al_tt_1)

- e. “Ray” (2004) – a notable element in the biopic of Ray Charles was his upbringing by a determined single mother who was

unconditionally supportive of him.

(http://www.imdb.com/title/tt0350258/?ref_=fn_al_tt_1)

8. The following are real-life examples of basketball players who have “given back” to their hometowns:

- a. Terry DeHere played in the NBA from 1993-1999; with his own money he paid for renovations (twice) of his boyhood playground on Garfield Avenue in Jersey City, New Jersey. When his career ended, he returned home, was elected to serve on the school board, became an owner of a local restaurant and dedicated himself to helping to rebuild the area.

(http://blog.nj.com/iamnj/2010/12/terry_dehere_former_nba_player.html)

- b. Gerald Wallace was raised in Childersburg, Alabama; he attended the University of Alabama for one season before declaring himself eligible for the 2001 NBA draft. The Gerald Wallace Foundation provides “life-changing opportunities for underserved children and their families with a special emphasis on recreational activities in [his hometown of] Childersburg, Alabama.” (Quote from the Foundation website.) He also built a playground in Charlotte,

North Carolina while a player for the Charlotte Bobcats.

(<http://www.givingback.org/gerald%20wallace>)

- c. Carmelo Anthony was raised in Baltimore, Maryland. Currently playing for the New York Knicks, Anthony formed The Carmelo Anthony Foundation and was recognized in 2006 for “making charitable donations in excess of \$4 million for projects in his hometown [including refurbishing a youth center on East Fayette Street]”. (<http://www.thisismelo.com/foundation/about/>
http://articles.baltimoresun.com/2013-10-17/sports/bs-sp-carmelo-anthony-return-20131016_1_carmelo-anthony-west-baltimore-nba-all-star)
- d. Jarrett Jack, who currently plays for the Cleveland Cavaliers, has donated time and money to the Maryland Stallions, the summer basketball program he played in as a youth. According to a 2007 article, “Jack has [supported] the Stallions by purchasing uniforms, basketball shoes and travel bags. He also donated the equipment in the gym where the Stallions play.”
(http://ww2.gazette.net/stories/021507/clinnew192611_32325.shtml)

- e. In September 2013 Charlotte Bobcats player Kemba Walker renovated the Bronx, New York playground court where he played as a child. (<http://truschoolsports.blogspot.com/2013/09/kemba-walker-opens-up-basketball-court.html>)
- f. Also, in 2013, LeBron James outfitted the teams at his alma mater, St. Vincent-St. Mary High School, with new uniforms and is building a new gymnasium there as well. (<http://www.nba.com/2013/news/08/10/lebron-donates-to-akron.ap/>)

9. The following are real-life examples of basketball players who have entered into endorsement deals for athletic shoes: Michael Jordan – Nike Air Jordan (1985); LeBron James – Nike Air Zoom Generations (2003); Kobe Bryant – Adidas KB8 (1998), Nike Zoom Kobe I (2006); Julius Erving – Converse (1976, the first pro basketball player to officially endorse a sneaker); Allen Iverson – Reebok Question (1996); Shaquille O’Neal – Reebok Shaq Attaqs (1992); Charles Barkley – Nike Air Max (1984); Carmelo Anthony – Nike Air Melo (2003); Derrick Rose – Adidas adiZero Rose (2010); Vince Carter – Puma Vinsanity (1998), Nike Shox BB4; Chris Paul – Air Jordan CP Line (2008); Dwayne Wade – Converse (2003); Dwight Howard – Adidas a3 Superstar Ultra II (2004); Kevin

Durant – Nike (2007); Tracy McGrady – Adidas T-Mac 1 (2002); Scottie Pippen – Nike Air Pippen 1 (1990); Kevin Garnett – Nike Air Garnett (1998); Dikembe Mutombo – Adidas Mutombos (1992); Yao Ming – Reebok Hexride (2008); Stephon Marbury – Steve & Barry’s (2006). (<http://www.sojones.com/style-trends/sneakers/20-nba-players-who-have-shoes-named-after-them/>).

10. The concept of a girl suggestively touching a boy’s “butt” appears in a movie co-written by and starring Ice Cube, among others, entitled “Friday” (1995). (<http://www.youtube.com/watch?v=WmwVclFrgw8> at 1:56).

11. The concept of a youth helping his single mother with the bills also appears in several motion pictures, including, for example: (a) “CrissCross” (1992) -- a youth living with his single mother starts working for a local restaurant owner to help his mother pay the bills after he discovers that she has starting working as a stripper; and (b) “Treadmill” (2006) – ever since his father died, a youth has had to play man of the house, paying the bills, cooking, cleaning, etc. (http://www.imdb.com/title/tt0104027/?ref=fn_al_tt_1; http://www.imdb.com/title/tt0997262/?ref=fn_al_tt_1)

12. The concept of a mother telling her son that a girl is good for him appears in several movies, including “Spider-Man” Movies (2002 or the next sequel), where protagonist Peter Parker (played by Tobey McGuire) is encouraged

by his aunt/mother figure to pursue a relationship with good girl Mary Jane.

Another example is “Keeping the Faith” (2000), wherein the mother constantly encourages her son to date women she thinks are good for him.

13. The concept of protagonist putting his/her best friend in charge of his/her business affairs also appears in several works. A few examples are:

- a. “Turn it Up” (2000) – aspiring rap musician Diamond is trying to make his way out of the mean streets of Brooklyn, with his best friend acting as a manager. (<http://www.imdb.com/title/tt0216772/>)
- b. “Entourage” (TV Series 2004-2011) – protagonist’s best friend is his manager. (<http://www.imdb.com/title/tt0387199/>)
- c. “Wolf of Wall Street” (2013) – the protagonist populates his business with his friends. (<http://www.imdb.com/title/tt0993846/>)

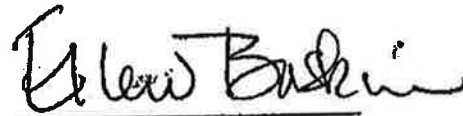
14. The concept of friends bantering back and forth and “having each other’s backs” appears in numerous other works, including for instance “Thelma and Louise” (1991) (on a weekend getaway, a woman kills a man who tries to rape her best friend and the two run from the law) and “Shaun of the Dead” (2004) (a man fights off zombies with his best friend by his side).

(<http://www.imdb.com/title/tt0103074/>; <http://www.imdb.com/title/tt0365748/>)

15. The concept of a “best friend” and “parent” bantering back and forth appears in numerous other works including, for instance, dating back to the 1950s classic sitcom “Leave it to Beaver” (TV Series 1957-1963) (June Cleaver and “best friend” Eddie Haskell frequently banter back and forth).

Under the terms of 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 19, 2014, in Los Angeles, California.

A handwritten signature in cursive script, appearing to read "Ellen Baskin", written over a horizontal line.

Ellen Baskin